



AN ACT PROVIDING COMMON CARRIER STATUS TO PIPELINES MOVING CARBON DIOXIDE PRODUCED IN THE COMBUSTION OR GASIFICATION OF FOSSIL FUELS; AND AMENDING SECTIONS 69-13-101, 69-13-102, 69-13-201, 69-13-301, 69-13-302, AND 69-13-303, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-13-101, MCA, is amended to read:

"69-13-101. Common carrier pipeline. (1) ~~The following are hereby declared to be common carriers and subject to the provisions of this chapter: every~~ A person, firm, corporation, limited partnership, joint-stock association, or association ~~of any kind whatever~~ is a common carrier if it engages in:

(a) owning, operating, or managing any pipeline or any part of any pipeline within the state for the transportation of crude petroleum, coal, ~~or the products thereof~~ of crude petroleum or coal, or carbon dioxide produced in the combustion or gasification of fossil fuels to or for the public for hire or engaging in the business of transporting crude petroleum, coal, ~~or the products thereof~~ of crude petroleum or coal, or carbon dioxide produced in the combustion or gasification of fossil fuels by pipelines;

(b) owning, operating, or managing any pipeline or any part of any pipeline for the transportation of crude petroleum, coal, ~~or the products thereof~~ of crude petroleum or coal, or carbon dioxide produced in the combustion or gasification of fossil fuels to or for the public for hire, ~~which when the pipeline is constructed or maintained upon, along, over, or under any public road or highway;~~

(c) owning, operating, or managing any pipeline or any part of any pipeline for transportation to or for the public for hire of crude petroleum, coal, ~~or the products thereof, which~~ of crude petroleum or coal, or carbon dioxide produced in the combustion or gasification of fossil fuels when the pipeline is or may be constructed, operated, or maintained across, upon, along, over, or under the right-of-way of any railroad, corporation, or other common carrier required by law to transport crude petroleum, coal, or the products thereof of crude petroleum or coal, or carbon dioxide produced in the combustion or gasification of fossil fuels as a common carrier;

(d) owning, operating, or managing or participating in ownership, operation, or management, under

lease, contract of purchase, agreement to buy or sell, or other agreement or arrangement of any kind whatsoever, any pipeline or any part of any pipeline for the transportation from any oil field, coal mine or field, or place of production within ~~the~~ this state to any distributing, refining, or marketing center or reshipping point ~~thereof~~; within this state; of crude petroleum, coal, ~~or the products thereof~~ of crude petroleum or coal, or carbon dioxide produced in the combustion or gasification of fossil fuels; bought ~~of~~ from others; or

(e) made a common carrier by or under the terms of contract with or in pursuance of the law of the United States.

(2) The provisions of this chapter ~~shall~~ do not apply to:

(a) ~~those~~ those pipelines ~~which~~ that are limited in their use to the wells, stations, plants, and refineries of the owner and ~~which~~ that are not a part of the pipeline transportation system of any common carrier, ~~as herein defined; nor shall such provisions apply to or~~

(b) any property of ~~such~~ a common carrier ~~which~~ that is not a part of or necessarily incident to its pipeline transportation system."

Section 2. Section 69-13-102, MCA, is amended to read:

"69-13-102. Scope of chapter -- enforcement. (1) It is declared that the operation of ~~these~~ pipelines, to which this chapter applies, for the transportation of crude petroleum, coal, ~~or the products thereof~~ of crude petroleum or coal, or carbon dioxide produced in the combustion or gasification of fossil fuels, in connection with the purchase or purchase and sale of ~~such~~ crude petroleum, coal, ~~or the products thereof~~ of crude petroleum or coal, or carbon dioxide produced in the combustion or gasification of fossil fuels, is a business in ~~mode of the conduct of~~ which the public is interested and ~~as such~~ is subject to regulation by law. The business of purchasing or of purchasing and selling crude petroleum, coal, ~~or the products thereof~~ of crude petroleum or coal, or carbon dioxide produced in the combustion or gasification of fossil fuels, using in connection with ~~such~~ that business a pipeline of the class subject to this chapter to transport the crude petroleum, coal, ~~or the products thereof~~ so of crude petroleum or coal, or carbon dioxide produced in the combustion or gasification of fossil fuels bought or sold ~~shall~~ may not be conducted unless ~~such~~ the pipeline ~~so~~ used in connection with ~~such~~ that business is a common carrier within the purview of this ~~law~~ chapter and subject to the jurisdiction ~~herein~~ conferred upon the commission.

(2) It ~~shall be~~ is the duty of the attorney general to enforce this provision by injunction or other adequate

remedy."

Section 3. Section 69-13-201, MCA, is amended to read:

"69-13-201. Establishment of rates and operating rules. (1) The commission ~~shall have the power to~~ may establish and enforce rates of charges and regulations for gathering, transporting, loading, and delivering crude petroleum, coal, ~~or the products thereof~~ of crude petroleum or coal, or carbon dioxide produced in the combustion or gasification of fossil fuels by ~~such~~ common carrier in this state and for the use of storage facilities necessarily incident to ~~such~~ the transportation and ~~to~~ may prescribe and enforce rules for the government and control of ~~such~~ common carriers in respect to their pipelines and receiving, transferring, and loading facilities. ~~It shall be its duty to~~ The commission shall exercise ~~such~~ the power upon petition by any person showing a substantial interest in the subject.

(2) ~~No~~ An order establishing or prescribing rates and rules ~~shall~~ may not be made except after hearing and at least 10 days' and not more than 30 days' notice to the person, firm, corporation, partnership, joint-stock association, or association owning or controlling and operating the pipeline or pipelines affected.

(3) ~~In the event any~~ If a rate ~~shall be~~ is filed by any pipeline and a complaint against the ~~same rate~~ or a petition to reduce the same shall be rate is filed by any shipper and ~~such complaint be~~ is sustained, in whole or in part, all shippers who ~~shall~~ have paid the rates ~~so~~ filed by the pipeline ~~shall~~ have the right to reparation or reimbursement of all excess in transportation charges ~~so~~ paid, over and above the proper rate as finally determined, on all shipments made after the date of the filing of ~~such~~ the complaint."

Section 4. Section 69-13-301, MCA, is amended to read:

"69-13-301. Records and reports. (1) ~~Such common~~ Common carriers of crude petroleum, coal, ~~or the products thereof~~ of crude petroleum or coal, or carbon dioxide produced in the combustion or gasification of fossil fuels shall make and publish their tariffs under ~~such~~ rules ~~as that~~ as may be prescribed by ~~said~~ the commission. The commission shall require ~~them~~ the common carriers to make reports and may investigate their books and records kept in connection with ~~such~~ the business.

(2) The commission shall require ~~of such~~ common carrier pipelines to make monthly reports, duly verified under oath, of the total quantities of crude petroleum, coal, ~~or the products thereof~~ of crude petroleum or coal, or carbon dioxide produced in the combustion or gasification of fossil fuels owned by ~~such~~ the pipelines, of that

held by them in storage for others, and of their unfilled storage capacity. ~~No publicity shall~~ Publicity may not be given by the commission to the reports as to stock of crude petroleum, coal, ~~or the products thereof of crude petroleum or coal, or carbon dioxide produced in the combustion or gasification of fossil fuels~~ on hand of any particular pipeline, but the commission in its discretion may make public the aggregate amounts held by all the pipelines making ~~such the~~ reports and of their aggregate storage capacity."

Section 5. Section 69-13-302, MCA, is amended to read:

"69-13-302. Connection and interchange facilities. (1) ~~Every~~ Each common carrier shall exchange crude petroleum tonnage, coal tonnage, ~~or petroleum or coal products tonnage, or carbon dioxide volume~~ with each ~~like similar~~ common carrier. The commission ~~shall have the power to~~ may require ~~such~~ connections and facilities for the interchange of ~~such the~~ tonnage and volume to be made at every locality reached by both pipelines whenever a necessity ~~therefor~~ for the connections and facilities exists, subject to ~~such~~ rates and regulations ~~as that~~ may be made by the commission. Any ~~such~~ common carrier under ~~like similar~~ rules ~~shall~~ must be required to install and maintain facilities for the receipt and delivery of crude petroleum, coal, ~~or the products thereof of crude petroleum or coal, or carbon dioxide produced in the combustion or gasification of fossil fuels~~ of patrons at all points on ~~such the~~ pipeline.

(2) ~~No~~ A carrier ~~shall~~ may not be required to receive or transport any crude petroleum, coal, ~~or the products thereof of crude petroleum or coal, or carbon dioxide produced in the combustion or gasification of fossil fuels~~ except ~~such~~ as may be marketable under rules ~~to be~~ prescribed by the commission, ~~which they are hereby empowered and required to prescribe.~~ The commission ~~is also empowered and required to~~ shall make rules for the ascertainment of the amount of water and other foreign matter in crude oil, coal, ~~or the products thereof of crude petroleum or coal, or carbon dioxide produced in the combustion or gasification of fossil fuels~~ tendered for transportation, for deduction ~~therefor~~ for water and foreign matter, and for the amount of deduction to be made for temperature, leakage, and evaporation.

(3) ~~The recital herein of particular powers on~~ delegated to the part of said commission ~~shall~~ in this section may not be construed to limit the general powers conferred by this chapter."

Section 6. Section 69-13-303, MCA, is amended to read:

"69-13-303. Prohibition of discrimination in rates or service. (1) Except as provided in subsection

(2), ~~no such~~ a common carrier in its operations ~~as such shall~~ may not discriminate between or against shippers in regard to facilities furnished, service rendered, or rates charged under the same or similar circumstances in the transportation of crude petroleum, coal, ~~or the products thereof;~~ or the products thereof of crude petroleum or coal, or carbon dioxide produced in the combustion or gasification of fossil fuels. There may not be any discrimination in the transportation of crude petroleum, coal, ~~or the products thereof~~ of crude petroleum or coal, or carbon dioxide produced in the combustion or gasification of fossil fuels produced or purchased by ~~itself~~ the common carrier directly or indirectly. In this connection the pipeline ~~shall~~ must be considered as a shipper of the crude petroleum, coal, ~~or the products thereof~~ of crude petroleum or coal, or carbon dioxide produced in the combustion or gasification of fossil fuels produced or purchased by ~~itself~~ the pipeline directly or indirectly and handled through its facilities. ~~No such~~ A carrier in ~~such~~ the operation ~~shall~~ may not directly or indirectly charge, demand, collect, or receive from any one a greater or lesser compensation for any service rendered than from another for a like and contemporaneous service. Subject to the provisions of this chapter and the rules ~~which~~ that may be prescribed by the commission, every ~~such~~ common carrier shall receive and transport crude petroleum, ~~or coal,~~ the products of crude petroleum or coal, or carbon dioxide produced in the combustion or gasification of fossil fuels delivered to it for transportation and shall ~~so~~ receive and transport the ~~same~~ products and perform its other duties with respect ~~thereto~~ to the products without discrimination.

(2) The provisions of subsection (1) ~~shall~~ do not limit the right of the commission to prescribe rates and regulations different from or to some places from other rates or regulations for transportation from or to other places, as it may determine, ~~nor shall any~~ A carrier ~~be~~ is not guilty of discrimination when obeying any order of the commission. When there ~~shall be~~ is offered for transportation more crude petroleum, coal, ~~or the products thereof~~ of crude petroleum or coal, or carbon dioxide produced in the combustion or gasification of fossil fuels than can be immediately transported, the ~~same shall~~ products must be equitably apportioned. The commission may make and enforce general or specific regulations in this regard. ~~No such~~ A common carrier ~~shall~~ may not at any time be required to receive petroleum or petroleum products for shipments exceeding 3,000 barrels ~~of petroleum or the products thereof~~ in any one day from any person, firm, corporation, or association of persons."

- END -

I hereby certify that the within bill,
HB 0338, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2009.

President of the Senate

Signed this _____ day
of _____, 2009.

HOUSE BILL NO. 338

INTRODUCED BY ANKNEY, BERRY, KLOCK, MEHLHOFF, O'HARA

AN ACT PROVIDING COMMON CARRIER STATUS TO PIPELINES MOVING CARBON DIOXIDE PRODUCED IN THE COMBUSTION OR GASIFICATION OF FOSSIL FUELS; AND AMENDING SECTIONS 69-13-101, 69-13-102, 69-13-201, 69-13-301, 69-13-302, AND 69-13-303, MCA.